To the Judges of the Circuit Court of the United States for the District of Massachusetts

David Banks, David Banks the younger and Charles Banks ~~&c~~ of the city of New York in the southern district of New York and William Gould and Anthony Gould both of Albany in the Northern District of New York booksellers publishers and Copartners citizens of the state of New York bring this their bill against Charles C. Little of Cambridge Augustus Flagg of Boston and James P. Brown of said Cambridge all in the District of Massachusetts booksellers publishers and Copartners citizens of the state of Massachusetts

And thereupon your orators complain and say that Thomas Day of Hartford in the state of Connecticut, a citizen of the United States was pursuant to the provisions of the statutes of the state of Connecticut some time in the year one thousand eight hundred and fourteen duly appointed and qualified as Reporter of the decisions of the Supreme Court of Errors of the state of Connecticut and pursuant to his said appointment and in the discharge of his duties of his said office did compose write and prepare for publication accurate reports of the cases decided in said Court from the year eighteen hundred and fourteen to the year eighteen hundred and fifty three both inclusive, which reports are embraced and contained in the twenty one volumes known as the Connecticut reports and form a complete series

of the decisions of said Court for that period and are of great value and reputation, that the said Thomas Day and his assigns were entitled to have the copyright or the sole and exclusive right of printing publishing and vending the said Reports so by him prepared as aforesaid and of securing such rights under and in virtue of the acts of Congress in that behalf = and that such rights have hitherto at all times been exercised by said Day and his assigns and been acquiesced in and acknowledged nor have the same ever been invaded or interfered with or disputed by any person whatsoever to the knowledge of your orators until the said Defendants made the publication hereinafter mentioned

And your orators further show unto your Honors that the said Thomas Day being the author of the aforesaid works and sole proprietor thereof and alone entitled to a copyright thereof did before the publication of the fifteenth volume of the said Connecticut Reports deposit in the Clerk's office of the District Court of the state of Connecticut in which District the said Day then resided to wit on the twentieth day of April in the year eighteen hundred and forty four = a printed copy of the title to the said fifteenth volume of said Connecticut reports And that he did give information of the copyright being secured by causing to be inserted on the several copies of the said work published during the time secured on the page immediately following the title page the following words to wit "Entered according to act of Congress in the year eighteen hundred and forty four by Thomas Day in the Clerk's office of the District Court of Connecticut" = and did within three months thereafter cause to be delivered to the said Clerk a copy of the said fifteenth volume of the Connecticut Reports and did do and perform all matters and things whatsoever needful or requisite to entitle him the said Day to the benefit of an act of the Congress of the United States made and passed on the third of February eighteen hundred and thirty one entitled

Congress of the United States made and passed on the third of February eighteen hundred and thirty one entitled

"an act to amend the several acts respecting copy rights"=

And your orators further show unto your Honors that the said Thomas Day being the author of the aforesaid works and sole proprietor thereof and alone entitled to a copy right thereof, and before the publication of the seventeenth volume of the said Connecticut Reports did deposit in the aforesaid clerk's office of the District aforesaid in which said Day then resided to wit on the twentieth day of March eighteen hundred and forty five a printed copy of the title to said seventeenth volume of Connecticut Reports, and that he did give information of the copy right being secured by causing to be inserted in the several copies of the said work published during the time secured on the page immediately following the title page the following words to wit "Entered according to act of Congress
" in the year eighteen hundred and forty five by Thomas Day in the
" clerk's office of the District Court of Connecticut" and did within three months thereafter cause to be delivered to said clerk a copy of said seventeenth volume of the Connecticut Reports and did do and performed all matters and things whatsoever needful or requisite to entitle him the said Day to the benefit of the act aforesaid

And your orators further show unto your Honors that the said Thomas Day being the author of the aforesaid works and sole proprietor thereof and alone entitled to a copy right thereof did before the publication of the eighteenth volume of the said Connecticut Reports deposit in the aforesaid Clerks office of the district aforesaid in which said Day then resided to wit on the nineteenth day of June in the year eighteen hundred and forty eight a printed copy of the title to said eighteenth volume of Connecticut Reports, and that he did give information of the copy right being secured by causing to be inserted in the several copies of the said work published by him during the time secured on the page immediately following the title page the following words to wit "Entered according to act

" of Congress in the year eighteen hundred and forty eight by Thomas
" Day in the clerk's office of the District Court of Connecticut" and
did within three months thereafter cause to be delivered to
the said Clerk a copy of the eighteenth volume of the Connecti-
cut Reports, and did do and perform all matters and things
whatsoever needful or requisite to entitle him the said Day to
the benefit of the act aforesaid

And your orators further show unto
your Honors that said Day being the author of the aforesaid
works and sole proprietor thereof and alone entitled to a copy
right thereof did before the publication of the nineteenth
volume of the said Connecticut Reports deposit in the clerk's
office aforesaid in the District aforesaid where the said Day
then resided to wit on the day of
in the year eighteen hundred and fifty a printed copy of the
title to the said nineteenth volume of said Connecticut Re-
ports, and that he did give information of the copy right being
secured by causing to be inserted in the several copies of the
said works published by him during the time secured on the
page immediately following the title page the following
words to wit " Entered according to act of Congress in the
" year eighteen hundred and fifty by Thomas Day in the clerk's
" office of the District Court of Connecticut" and did within
three months thereafter cause to be delivered to the said clerk
a copy of the nineteenth volume of the Connecticut Reports and
did do and perform all matters and things whatsoever
needful or requisite to entitle him the said Day to the bene-
fit of the act aforesaid

And your orators further show unto
your Honors that said Day being the author of the afore-
said works and sole proprietor thereof and alone entitled
to a copy right thereof did before the publication of the twen-
tieth volume of the said Connecticut Reports deposit in the
clerks office of the District aforesaid where the said Day

clerks office of the District aforesaid where the said Day

then resided to wit on the twelfth day of June in the year eighteen hundred and fifty one a printed copy of the title to said twentieth volume of said Connecticut Reports, and that he did give information of the copy right being secured by causing to be inserted in the several copies of the said work published by him during the time secured on the page immediately following the title page the following words to wit "Entered according to act of Congress in the year eighteen "hundred and fifty one by Thomas Day in the Clerk's office "of the District court of Connecticut" and did within three months thereafter cause to be delivered to the said Clerk a copy of the said twentieth volume of the Connecticut Reports and did do and perform all matters and things whatsoever needful or requisite to entitle him the said Day to the benefit of the act aforesaid

And your orator further shows unto your Honors that said Day being the author of the aforesaid works and sole proprietor thereof and alone entitled to a copyright thereof did before the publication of the twenty first volume of the said Connecticut Reports deposit in the clerks office of the District aforesaid where the said Day then resided to wit on the day of in the year eighteen hundred and fifty three a printed copy of the title to said twenty first volume of said Connecticut Reports, and that he did give information of the copy right being secured by causing to be inserted in the several copies of the said work published by him during the time secured on the page immediately following the title page the following words to wit "Entered according to act of Congress in the "year eighteen hundred and fifty three by Thomas Day in "the clerk's office of the District Court of Connecticut" and did within three months thereafter cause to be delivered to the said Clerk a copy of the twenty first volume of the Connecticut Reports and did do and perform all matters

and things whatsoever needful or requisite to entitle him the said Day to the benefit of the act aforesaid

And your orators further show unto your Honors that the said Thomas Day afterwards to wit on the first day of November in the year eighteen hundred and fifty three by his deed of that date by him duly signed sealed and executed and duly acknowledged did among other things sell assign grant and confirm unto Thomas M. Day then of said Hartford a citizen of the United States all the right title & interest which he had or ought to have in & to the said fifteenth seventeenth eighteenth nineteenth twentieth and twenty first volumes of said Connecticut Reports with all the rights & privileges of printing and publishing and vending them and each of them which by virtue of the copy rights belonged to him - also with power and authority to sell assign and transfer said copyright to any person or persons or body corporate who may purchase the same - And the said Thomas M. Day by his deed bearing date the eighth of December in the same year duly signed sealed executed and acknowledged did assign transfer and set over the same to your orators then and ever since citizens of the United States which said deeds of said Thomas Day and Thomas M. Day were duly recorded on the twenty eighth day of said December in the Clerk's office of the said District Court as by the said deeds which your orators now produce and leave with the clerk of this Honorable court for the usual purposes reference being thereto had with among other things more fully and at large appear

And your orators further show unto your honors that the said Day being the author and sole proprietor of the said works and alone entitled to a copy right thereof did enter into an agreement and arrangement with certain persons citizens of the United States doing business in said Hartford under the firm of Packard & Brown whereby the said Packard

under the firm of Packard & Brown whereby the said Packard

and Brown became the exclusive proprietors and publishers of the twelfth volume of said Connecticut Reports and entitled to take out a copy right of the same and they said Packard and Brown before the publication thereof did deposit in the Clerk's office in the district aforesaid to wit on the day of in the year eighteen hundred and thirty nine a printed copy of the title to the said twelfth volume of the Connecticut Reports and that they did give information of the copyright being secured by causing to be inserted in the several copies of the said work published by them during the time secured on the page immediately following the title page the following words to wit "Entered according to act of Congress in the "year eighteen hundred and thirty nine by Packard and "Brown in the Clerk's office of the District Court of Connecticut" and did within three months thereafter cause to be delivered to the said clerk a copy of said twelfth volume of the Connecticut Reports and did do and perform all matters and things whatsoever needful or requisite to entitle them to the benefit of the act aforesaid

And your orators further show that the said firm of Packard and Brown was afterwards dissolved and they were succeeded in their business as publishers by Flavius A Brown and Edward W Parsons both of said Hartford publishers and copartners under the firm of Brown and Parsons both citizens of the United States who became and were the proprietors of the copyright of the said twelfth volume of the Connecticut Reports = and they the said Brown and Parsons by their deed bearing date the twentieth of December eighteen hundred and forty seven by them duly executed acknowledged and recorded did assign and transfer the same unto the said Thomas Day, and the said Thomas Day by his deed bearing date the second day of July eighteen hundred and fifty three duly executed acknowledged and recorded did

assign and transfer the same to your orators whereby your orators became and were the sole proprietors of the copyright of the said twelfth volume of the Connecticut Reports

And your orators further show unto your Honors that the exclusive right to print and publish and sell the several books aforesaid and the whole and every part of the contents of them was and is vested in your orators - and your orators have expended large sums of money in preparing and printing editions of the said books and have always had and still have a sufficient number of copies of the same on hand for sale to the public at a reasonable price and have always received and still ought to receive the profits thereof.

And your orators further show unto your Honors that the said Defendants well knowing your orators right in the premises, and without the consent of your orators or any other person whatever legally authorized to give such consent did sometime in the year eighteen hundred and fifty five print and publish & cause to be published and printed a certain work entitled "Cases relating to the law of Railways decided in the Supreme Court of the United States and in the courts of the several states" And did print and publish a large edition thereof but how many copies your orators are ignorant but state the same to be at least three thousand copies and did cause the same to be stereotyped so that they might readily publish and print a further number thereof at their pleasure and they the said defendants have caused to be sold a great number of copies thereof but precisely how many your orators are ignorant and therefore pray full discovery from the defendants, and your orators charge that they have sold at least two thousand copies thereof

And your orators further show unto your Honors that in the second volume of the said Book so published by the said defendants they have infringed upon the rights so secured to your orators as aforesaid by print-

honors that in the second volume of the said Book so published by the said defendants they have infringed upon the rights so secured to your orators as aforesaid by printing and publishing therein without the consent of your orators or any other person authorized to give such consent divers portions of the aforesaid twelfth, fifteenth, seventeenth eighteenth nineteenth twentieth and twenty first volumes of the said Connecticut Reports the copyright whereof is vested and belongs to your orators as aforesaid, and the portions so printed and published are as follows to wit the case of the Hartford and New Haven Rail Road Company against Kennedy being thirty one printed pages of the said twelfth volume - the case of the Hartford and New Haven Rail Road Company against Boorman being two pages of the said twelfth volume, the case of Borroughs against the Housatonic Rail Road company being nine pages of said fifteenth volume, the case of the city of Bridgeport against the Housatonic Rail Road company being twenty eight pages of the said fifteenth volume, the case of the Enfield Toll Bridge Company against the Hartford and New Haven Rail Road company being twenty six pages of the seventeenth volume aforesaid - the Case of O'Brien against the Norwich and Worcester Rail road company being four pages of said seventeenth volume - the case of the Enfield Toll Bridge Company against the Hartford and New Haven Rail Road Company being thirteen pages of said seventeenth volume - the case of the Norwich and Worcester Rail Road against Cahill being ten pages of the eighteenth volume aforesaid - the case of Beers against the Housatonic Rail Road Company being eleven pages of said nineteenth volume - the case of Mann against Cook being twelve pages of said twentieth volume - the case of Merriam against the Hartford and New Haven Rail Road company being fourteen pages of said twentieth volume - the case of Bradley against the New York and New Haven Rail Road company being nineteen pages of said twenty first volume and the case of

Fuller and wife against Naugatuck Rail Road Company being nineteen pages of the twenty first volume aforesaid

And your orators further show unto your Honors that the cases so aforesaid printed and published by the said defendants are identically the same with those contained in said several volumes of said Reports and are copied therefrom literally and in full without any alteration abbreviation or abridgement and said printing and publishing is a manifest infringement of your orators said copyright and form a very considerable portion nearly one third of the second volume of the book published by the Defendants - and the said defendants well knew when they printed and published the aforesaid Book and when they made the sales aforesaid and exposed and offered their said publication for sale that your orators were the owners of the said copyrights, and that their printing publishing selling and exposing the same for sale was an infringement of the said copyrights

And your orators further show that by reason of the printing publishing and selling by the said defendants and their continuing to expose for sale the said book hereinbefore complained of the sales of your orators said books have been prevented and rendered less in number than what they would otherwise have been and that your orators will suffer a still greater diminution of their sales and a still greater loss of their lawful and rightful profits on their said books if the said Book complained of shall continue to be printed published and sold by the said Defendants

To the end therefore that the said Defendants may if they can show why your orators should not have the relief hereby prayed and may upon their several and respective corporal oaths and according

To the end therefore that the said Defendants may if they can show why your orators should not have the relief hereby prayed and may upon their several and respective corporal oaths and according to the best and utmost of their several and respective knowledge remembrance and belief full true direct and perfect answer make to such of the several interrogatories hereinafter numbered and set forth as by the note hereunder written they are respectively required to answer: that is to say

1. Whether the said Thomas Day was not duly appointed reporter as hereinbefore stated

2. Whether he did not compose and prepare for publication the aforesaid twenty one volumes of Connecticut Reports and entitled to the copy right

3. Whether your orators did become the proprietors of the copy right of the twelfth = fifteenth = seventeenth = eighteenth = nineteenth = twentieth = and twenty first volumes of said Connecticut Reports in the manner and at the time or times hereinbefore stated

4. Whether the defendants did not print or cause to be printed and published the said Book entitled "Cases "relating to the law of Rail Ways decided in the supreme "Court of the United States and in the Courts of the sever-"al States" = and when the same were published =

5. How many copies they have so printed or published.

6. How many copies they have sold = and during what time. and at what price or prices

7. Whether at the time of the publication thereof your orators were not the owners of the copy right of said several enumerated volumes of the Connecticut reports.

8. Whether the cases hereinbefore enumerated are not contained in the second volume of said work so published by the Defendants and do not form a considerable, and what portion of said second volume

9. Whether the said cases are not copied or taken from said enumerated volumes of the Connec-

ticut Reports entire and literally, without alteration abbreviation or abridgement

10. Whether the Defendants have not caused the said Book so published by them to be stereotyped

and that said Defendants may be restrained from printing publishing selling or offering for sale or causing or being in any way concerned in selling or exposing for sale or otherwise disposing any other copies of the work hereinbefore complained of, and that they be ordered to render an account of the copies of the same which have been sold and to pay over the profits of such sales to your orators, and that they be ordered to surrender and deliver up to your orators all copies of the Book they have on hand and that they be ordered and directed to destroy the stereotype plates thereof, and the Exclusive right and privilege of your orators to print publish and sell the said enumerated volumes of the Connecticut Reports may be established and that your orators may have such other and further relief in the premises as to this Honorable Court shall seem meet and as the nature and circumstances of the case may require =

May it please your Honors to grant to your orators not only a writ of injunction but also a writ of subpoena directed to the said Charles C. Little, Augustus Flagg and James P. Brown commanding them and each of them to appear before this Honorable Court and full true direct and perfect answer make to all and singular the premises and further to stand to, perform and abide such further order direction and decree therein as to your Honors shall seem meet

N.B. Each Defendant is required to answer each and every of the said interrogatories

A N Soho
Pltf Solicitor

D. Banks
Anthony Gould
William Gould
Davids. Banks Jr
Charles Banks

Southern District of New York. S.S.

David Banks Jun of said district one of the plaintiffs being sworn saith that he has read the foregoing bill of complaint and knows the contents thereof, that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters that he believes to be true.

Sworn before me this 2 day of September 1856.

Geo W Morton
US Comr

David Banks Jr

74 May Term 1858

David Banks Adm.
In Equity
v
Chas. C. Little Adm.

U.S. C. Mass. Dist:
Clerks Office
Sept 18. 56. Bill filed
" " " Sub. Ofs. set. for Nov 8.
to wit Nov 3. 56

Recorded C.R.

Copy for the Plaintiff

To the Judges of the Circuit Court of the United States for the District of Massachusetts.

The joint & several answers of Charles C. Little, Augustus Flagg and James P. Brown the Defendants to the bill of Complaint of David Banks, David Banks the younger, Charles Banks, William Gould, and Anthony Gould, Complainants.

The Defendants reserving to themselves all right of exception to said bill of complaint for answer thereto say:

The Defendants know not but have been informed and believe that Thomas Day in the said bill mentioned was appointed Reporter of the discisions of the Supreme Court of errors of the State of Connecticut in the year Eighteen hundred and fourteen: they have no knowledge or information except from the averments in said bill, as to the terms of his said appointment, or of his duties appertaining to his office of Reporter.

The Defendants admit that the said Thomas Day has caused to be published twenty one volumes of reports, containing accurate reports of the cases decided in said Court of errors from the year Eighteen hundred and fourteen, to the year Eighteen hundred and fifty three both inclusive.

The Defendants have no knowledge that the

said Thomas Day was intitled to have the copyright or the sole or exclusive right of printing publishing or of securing such right of printing publishing or vending the said reports or of securing such rights under and in virtue of the acts of Congress in that behalf. The Defendants upon information and belief admit that the said Thomas Day has exercised such rights under a supposed title thereto, derived from and under the said acts of Congress, but they know not and have no information, except such as is exhibited in the said bill, and therefore cannot admit or deny that the the said Thomas Day has done and performed all matters and things required by law to intitle him to a copyright in the said reports.

The defendants upon information & belief admit that the said Thomas Day deposited in the clerks office of the District Court of the United States for the District of Connecticut printed copies of the several titles of the, fifteenth, seventeenth, eighteenth, nineteenth, twentieth and twenty first volumes of Connecticut Reports before the publication thereof, that the said Packard & Brown deposited in like manner a similar copy in relation to the said twelfth volume. The Defendants know not whether the said Thomas Day & the said Packard & Brown within three months after the said deposite of title by them severally made as aforesaid caused to be delivered to said Clerk copies of each or of either of the said first named volumes; that they have no information in relation to such deposit except from the matters in said bill contained and averred & therefore cannot admit or deny such deposit but require proof thereof if material.

said Thomas Day was intitled to have the copyright or the sole or exclusive right of printing publishing or of securing such right of printing publishing or vending the said reports or of securing such rights under and in virtue of the acts of Congress in that behalf. The Defendants upon information and belief admit that the said Thomas Day has exercised such rights under a supposed title thereto, derived from and under the said acts of Congress, but they know not and have no information, except such as is exhibited in the said bill, and therefore cannot admit or deny that the the said Thomas Day has done and performed all matters and things required by law to intitle him to a copyright in the said reports.

The defendants upon information & belief admit that the said Thomas Day deposited in the clerks office of the District Court of the United States for the District of Connecticut printed copies of the several titles of the, fifteenth, seventeenth eighteenth, nineteenth, twentieth and twenty first volumes of Connecticut Reports before the publication thereof, that the said Packard & Brown deposited in like manner a similar copy in relation to the said twelfth volume. The Defendants know not whether the said Thomas Day & the said Packard & Brown within three months after the said deposite of title by them severally made as aforesaid caused to be delivered to said Clerk copies of each or of either of the said last named volumes; that they have no information in relation to such deposit except from the matters in said bill contained and averred & therefore cannot admit or deny such deposit but require proof thereof if material.

The Defendants admit that the said Thomas Day & the said Packard & Brown, severally gave the information upon the pages next immediately following the several title pages of the said several last named volumes, as in the bill is stated, but they upon information & advice deny that such notice is in conformity with the law, inasmuch as it does not show an entry in the clerks office of the District Court of the District of Connecticut.

And these Defendants for further answer say, that no copyright has been secured as they are advised, in the said eighteenth, nineteenth, twentieth and twenty first volumes of reports, or in either one of them, because the Complainants do not show that the said Thomas Day, or his assigns within three months from the publication of the said several four last named volumes, delivered or caused to be delivered one copy of each of the same or of either one of them to the librarian of the Smithsonian Institution or to the Librarian of the Congress Library as by law is required to secure a copyright.

And these Defendants further say that they know not & have not been informed save by the Complainants said bill and cannot set forth as to their belief or otherwise — whether the deed from said Thomas Day to Thomas M. Day or the deed of the said Thomas M. Day to the Complainants was executed acknowledged delivered & recorded

The Defendants admit that the said Thomas Day & the said Packard & Brown, severally gave the information upon the pages next immediately following the several title pages of the said several last named volumes, as in the bill is stated, but they upon information & advice deny that such notice is in conformity with the law, inasmuch as it does not show an entry in the clerks office of the District Court of the District of Connecticut.

And these Defendants for further answer say, that no copyright has been secured as they are advised, in the said eighteenth, nineteenth, twentieth and twenty first volumes of reports, or in either one of them, because the Complainants do not show that the said Thomas Day, or his assigns within three months from the publication of the said several four last named volumes, delivered or caused to be delivered one copy of each of the same or of either one of them to the librarian of the Smithsonian Institution or to the Librarian of the Congress Library as by law is required to secure a copy right.

And these Defendants further say that they know not & have not been informed save by the Complainants said bill and cannot set forth as to their belief or otherwise — whether the deed from said Thomas Day to Thomas M. Day or the deed of the said Thomas M. Day to the Complainants was executed acknowledged delivered & recorded

at the times in said bill set forth, or at any other time, or whether said supposed sale or assignment was made between the said parties or any of them or whether the said Thomas Day made the agreement or arrangement named in the said bill, or any agreement or arrangement with said Packard & Brown touching the twelfth volume of said Reports, or whether the said Packard & Brown dissolved copartnership and were succeeded by said Brown & Parsons, and whether the deed or assignment in said bill set forth or any other deed or assignment to said Thomas Day to the Complainants purporting to assign said twelfth volume was executed delivered and recorded as therein set forth. And these Defendants are therefore ignorant whether the exclusive right to print, publish & sell, or expose for sale every or any part of the contents thereof was or is vested in the Complainants. And these Defendants further answering say that in the year 1855 they did print and publish the work named in said bill intitled Cases relating to the law of Railways decided in the Supreme Court of the United States and in the Courts of the several states but they deny that said publication was unauthorized or was a violation of the rights of the Complainants.

And these Defendants further say that up to the time of the filing of the Complainants said bill they have printed One thousand copies and sold Eight hundred and ninety six copies of said second volume and that the total price of said sale is Twenty six hundred & eighty seven dollars twenty cents. And these Defendants

at the times in said bill set forth, or at any other time, or whether said supposed sale or assignment was made between the said parties or any of them or whether the said Thomas Day made the agreement or arrangement named in the said bill, or any agreement or arrangement with said Packard & Brown touching the twelfth volume of said Reports, or whether the said Packard & Brown dissolved copartnership and were succeeded by said Brown & Parsons, and whether the deed or assignment in said bill set forth or any other deed or assignment to said Thomas Day to the Complainants purporting to assign said twelfth volume was executed delivered and recorded as therein set forth. And these Defendants are therefore ignorant whether the exclusive right to print publish & sell, & expose for sale every or any part of the contents thereof was or is vested in the Complainants. And these Defendants further answering say that in the year 1855 they did print and publish the work named in said bill intitled: Cases relating to the law of Railways decided in the Supreme Court of the United States and in the Courts of the several states but they deny that said publication was unauthorized or was a violation of the rights of the Complainants.

And these Defendants further say that up to the time of the filing of the Complainants said bill they have printed One thousand copies and sold Eight hundred and ninety six copies of said second volume and that the total price of said sale is Twenty six hundred & eighty seven dollars twenty cents. And these Defendants

further answering say they are ignorant, whether at the time of said publication the Complainants were the owners of the copyright of the said several volumes of Connecticut Reports, and that there was any copyright therein. These Defendants admit that the cases enumerated in said bill are contained in the second volume of said Railway cases, and that said cases form nearly one third part of said second volume, and that said cases so taken from the Connecticut Reports are therein copied entire & literally without alteration abbreviation or abridgement. These Defendants admit that they have caused the said book to be stereotyped, but they deny that by their said acts they have infringed any copy right of the Complainants.

And these Defendants deny that by reason of the printing, publishing, and selling and continuing to expose for sale said books of Railway cases the sales of the said Connecticut Reports have been prevented or rendered less in number than they otherwise would have been, and that the Complainants will suffer any diminution of sales, or loss of profits, on said Connecticut Reports if said books of Railway cases continue to be printed, published & sold.

And these Defendants further answering say that they not knowing with certainty the rights of the said Thomas Day and wishing to avoid all controversy with him did previous to the publication or printing of the said Rail Way Cases, to wit on the twentieth day of September A.D. 1852 request Chauncey Smith Esq the proposed Editor of said

further answering say they are ignorant whether at the time of said publication the Complainants were the owners of the copy right of the said several volumes of Connecticut Reports, and that there was any copyright therein. These Defendants admit that the cases enumerated in said bill are contained in the second volume of said Railway cases, and that said cases form nearly one third part of said second volume, and that said cases so taken from the Connecticut Reports are therein copied entire & literally without alteration abbreviation or abridgement. These Defendants admit that they have caused the said book to be stereotyped, but they deny that by their said Acts they have infringed any copy right of the Complainants.

And these Defendants deny that by reason of the printing, publishing, and selling and continuing to expose for sale said books of Railway cases the sales of the said Connecticut Reports have been prevented or rendered less in number than they otherwise would have been, and that the Complainants will suffer any diminution of sales, or loss of profits, on said Connecticut Reports if said books of Railway cases continue to be printed, published & sold.

And these Defendants further answering say that they not knowing with certainty the rights of the said Thomas Day and wishing to avoid all controversy with him did previous to the publication or printing of the said Rail Way Cases, to wit on the twentieth day of September A.D. 1852 request Chauncey Smith Esq the proposed Editor of said

work to communicate to said Thomas Day, the intention of these Defendants, and to obtain the consent, permission and license of the said Thomas Day to print in full in said proposed work the cases stated in said bill of Complaint to have been copied from said Connecticut Reports, and the said Smith addressed the said Thomas Day by letter in these words to wit:

Boston September 20th 1852.

Thomas Day Esquire.

Dear Sir: I am about preparing for publication a collection of the American Railroad Cases with notes upon a plan similar to the English Railway cases. To carry out my purpose I am obliged to rely upon the generosity of the gentlemen holding the copyright of the American Reports for the privilege to print the cases found in their respective volumes. The privilege has already been granted in several cases. The work will probably not extend beyond two volumes. There are in the Connecticut Reports a few cases which fall within the plan of this work, and I solicit the favor of being allowed to print them in full. I believe there are not above eight or nine cases, and credit will be given to the volumes from which they are taken. If you can grant me this privilege I shall be greatly obliged.

Respectfully,

(signed) Chauncey Smith.

And the said Day on the twenty second day of said September granted to the Defendants in writing the said license in the words & figures following: viz:

work to communicate to said Thomas Day, the intention of these Defendants, and to obtain the consent, permission and license of the said Thomas Day to print in full in said proposed work the cases stated in said bill of Complaint to have been copied from said Connecticut Reports, and the said Smith addressed the said Thomas Day by letter in these words to wit:

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Respectfully,

(signed) Chauncey Smith

And the said Day on the twenty second day of said September, granted to the Defendants in writing the said license in the words & figures following: viz:

Hartford Sept 22d 1852

Chauncey Smith Esq.

Dear Sir:

Your communication of the 20th inst. has been received. I have no objection to your making use of the Railway cases in the Connecticut Reports, which appear to be within the scope of your contemplated work, in the way you propose. With the best wishes for your success in this undertaking.

Yours truly

(signed) Thomas Day

P.S. There is one case of some importance that of Bradley v. The New York and New Haven RR Co 21 Conn. R. 294. which you may not have seen as the volume which contains it has not been completed. You may find it I think, in Mr Putnam's hands. signed T.D.

And these Defendants further answering say, that before the first day of September in the year Eighteen hundred and fifty three these Defendants gave notice of their intention to print & publish said "American Rail Way Cases" by a public advertisement inserted more than twelve times, in a newspaper called the Boston Daily Advertiser, and also printed in a pamphlet catalogue, and so distributed in the city of New York & in the principal cities of the United States, and that said notice was in the words and figures following viz: "American Railroad Cases, a Complete Collection of the American Cases relating to the rights, duties, and liabilities of Rail roads; with Notes & References to the American Railway, Canal, & Turnpike Cases. By Chauncey Smith Esq. 2 vols 8 vo.", and

Hartford Sept 22d 1852

Chauncey Smith Esq.

Dear Sir:

Your communication of the 20th inst has been received. I have no objection to your making use of the Railway cases in the Connecticut Reports, which appear to be within the scope of your contemplated work, in the way you propose. With the best wishes for your success in the undertaking.

Yours truly

(signed) Thomas Day

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that said notice was given to these Complainants.

And these Defendants further answering say, that in or about the month of November A. D. 1853 the said Complainants had a controversy with these Defendants, on the subject of certain alleged infringements by said Complainants of copyrights belonging to these Defendants, and that for the better debating & adjusting all matters in dispute in said controversy, and all infringements by either party of copyrights belonging to the other, the said Complainants & Defendants on the thirtieth day of said November met in said Boston & after much examination & full consideration of all alleged infringements by either party, did adjust said controversy by an agreement in writing signed & delivered by both said parties, in the words & figures following, viz:

Whereas a controversy has arisen between Banks Gould & Co and Little Brown & Co in reference to infringements of copyrights of Sundry Law publications, and the parties being desirous to settle all matters in relation thereto, without resort to legal means, it is therefore hereby agreed to adjust all matters between them in reference to infringements of copyrights up to this date by compromise as follows: said Banks Gould & Co shall deliver to said Little, Brown & Co, One hundred sets of "Archbold's Criminal Practice &c" bound, and also with the right for Little Brown & Co's Editor to use such Railway cases in Banks Gould & Co's New-York Reports as Little Brown & Co's Editor may require in the work now preparing for the press as "American Railway Cases".

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It being understood that Banks Gould & Co shall have the right to print new editions of "Archbold's Criminal Practice", and "Eden on Injunctions" as they now stand. The use of said Railway cases to be used with the same freedom as of the Reports of other states. Dated at Boston this 30th day of November 1853.

Signed Duplicates (signed) Little, Brown & Co
Witness Banks Gould & Co
Rufus Leighton
Henry T. Miles

And these Defendants further say that at the time of the signing of said agreement said Complainants well knew that these Defendants proposed and intended to use said cases from said volumes of said Connecticut Reports, in the manner they have since done in their said proposed collection of Rail-Way cases. And these Defendants further say that the said first volume of American Railway Cases was printed and published by these Defendants, on or about the first day of September A.D. 1854 and was intitled "Cases relating to the law of Railways, decided in the Supreme Court of the United States, and in the Courts of the several states with notes, by Chauncey Smith and Samuel W Bates Counsellors at Law Vol I." and that said work contained the following advertisement which was known to the Complainant".

"Advertisement

The introduction of Railways has given rise to much litigation either peculiar to that species

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"Advertisement

The introduction of Railways has given rise to much litigation either peculiar to that species

of property or involving novel applications of the principles of the Common Law. In England it has been found convenient to publish the Railway cases as a separate series of Reports, and a conviction that a similar collection of the cases in this country would be of great service to the profession has led to the preparation of these volumes. The extention of Railways to all parts of the country, and the intimate relation which each road bears to all the others, makes it important that the decisions of the various Courts in the United States, affecting this species of property should be as uniform and harmonious as possible. A collection of the cases by bringing all the decisions within the reach of every member of the profession cannot fail to promote these results. The cases have been taken from the various reports, and a note at the commencement of each case indicates the volume and ~~case~~ page from which it is taken. The undersigned wish here to acknowledge their obligations to the Reporters & Proprietors of the Reports from which the cases have been taken for their kindness in allowing them the use of their works.

signed { Chauncey Smith
Samuel W. Bates

Boston August 1854.

And these Defendants further say that the said Complainants well knew that these Defendants intended to complete the said collection

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Samuel W. Bates

Boston August 1854.

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of Rail Way cases, on the plan of the portion of them published in said first volume, and for that purpose to insert therein said cases from said Connecticut Reports, and that the Complainants did not object to the prosecution or execution of the intention of these Defendants, to complete their proposed work, and in the subsequent execution of which they have expended large sums of money.

All of which matters and things these Defendants are willing to aver maintain & prove, as this Honorable Court shall direct, and humbly pray to be hence dismissed with their reasonable costs & charges.

Chas. C. Lette

Augustus Flagg

Samuel P. Brown

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All of which matters and things these Defendants are willing to aver maintain & prove, as this Honorable Court shall direct, and humbly pray to be hence dismissed with their reasonable costs & charges.

Charles C. Little

Augustus Flagg

James V. Brown

Circuit Court of the United States
Massachusetts District. }

May 13 1857.

Personally appeared Charles C. Little, Augustus Flagg and James P. Brown the within defendants, and made oath that they have read the ~~within~~ answer by them subscribed, and know the contents thereof & that the same is true except as to matters therein stated to be on information and belief, and as to those matters they believe them to be true.

Before me Henry W. Fuller Clerk

Circuit Court of the United States
Massachusetts District. }

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Before me Henry N. Fuller Clerk

79 David Banks & als in Eq

vs

Chas. C. Little & als

Filed in Clerk's
Circuit Court, &
filed with him
J. E. P.

Answer.

U.S.C.C. Map Dist
May 13. 1857
Filed in the Clerks Office
Attest
H.W. Ferrier Clk

Circuit Court U.S.
Massachusetts Dist. } May T. 1858
David Banks & als in Eq
v
Charles P. Little & als.

By consent of parties, it is now Ordered Adjudged & decreed by the Court that the Bill of Complaint in this Cause, be & the same is hereby dismissed without costs

By the Court

H. W. Fowler Clerk

Bucks & als in Eqty
vs.
Sittler & als

Final Decree

The Bill of Complaint in this Cause was filed in the Clerk's Office on the 17th day of September AD 1856 — & was entered at the Oct Term of this Court AD 1856 — ~~& begin the word~~ as follows — : Namely

Copy Bill —

On the ~~thirteenth~~ day of April AD 1857. The respondents filed the following Answer — to wit:

Copy Answer

The cause was thence continued from term to term until this present Term when ~~the following proceedings~~

Copy final Decree

U. S. A.

Circuit Court U. S.
Massachusetts District

In Equity. Banks et al. v. Little et al —

Costs for Plffs

Entry, Subp. Affs fee		4.00
Service, Marshal's fee	oath fee	.50
		9.25
Travel at Rules —	2.64	
attend ——	.33	
Travel " "	2.64	
Att ——	.33	5.94
+ Continue at Rules - 17 × 15	2.55	
+ Com at Dedy 5. 1856. May 30 Oct. 57	.90	
Travel 3 terms 2.64 — ——	7.92	
Att. — 3 × 33-99 × 3	2.97	14.34
Atty. fee on final hearing		20.00
Docket Entries — 4	.60	
Docket fee —	2.00	
Filings ——	.70	
Record ——	11.42	14.72
		$68.75

79 Burks Vs Little

Costs for Plffs

United States of America, } Boston Cambridge Sept. 19 1856.
MASSACHUSETTS DISTRICT, SS.

I hereby certify, that I have notified the within named Little Flagg & Brown by giving in hand to Little & Brown & by leaving at the last & usual place of abode of Flagg severally attested copy herein

3 fees & 6 25
3 copies 3. –
$ 9.25

Watson Freeman } United States Marshal.

655

In Equity,

Daniel Banks & al.

VERSUS

Richard B. Little & al.

SUBPOENA,

RETURNABLE, November RULES,

To wit, November 3d 1856.

(a. Jd. Sinn.)
Pltf's Solr.

UNITED STATES OF AMERICA.

Massachusetts District, ss.

To Charles C. Little of Cambridge, Augustus Flagg of Boston and James P. Brown of said Cambridge, all in the District of Massachusetts, Booksellers, Publishers and Copartners, Citizens of the State of Massachusetts

GREETING.

FOR CERTAIN CAUSES, offered before the Circuit Court of the United States of America, for the first Circuit, within and for the Massachusetts District, as a Court of Chancery, WE COMMAND AND STRICTLY ENJOIN YOU, laying all other matters aside, and notwithstanding any excuse, that you personally be and appear before our said Circuit Court, at the Rules, to be holden at the Office of the Clerk of our said Court, in Boston, in said District, on the first Monday, being the third day of November next, to answer concerning those things, which shall then and there be objected against you by David Banks, David Banks the younger and Charles Banks of the City of Newburgh in the Northern District of Newyork and William Greene and Anthony Gould both of Albany in the Northern District of Newyork, Booksellers, Publishers and Copartners, Citizens of the State of Newyork and particularly as set forth in their Bill of Complaint filed in Court this day

and to do further and receive that which our said Circuit Court shall consider in this behalf. And this you are in no wise to omit, under the penalty of two thousand dollars And have you there this writ.

Witness, the Honorable Roger B. Taney *at Boston, this* Eighteenth *day of* September *A. D.* 1856, *in the* ~~seventy~~ eighty-first *year of the Independence of the United States of America.*

J. W. Fuller *Clerk.*

MEMORANDUM. The defendant is to enter his appearance in the suit in the Clerk's Office on or before the day at which the writ is returnable, otherwise the bill may be taken pro confesso.

Please let me know as soon as you can the cost of Complaint taxed as provided under in case of Bank v Little No 79

Generally your own fees I work this if possible today or to-morrow morning at this address. 11.42

Yrs

A W Tasker

1.15
1.85
1.75
2.85

Apl 22 1858

No 192 May 7 1857

I went Eton Stylman v Salmon case which was appeal for Mch 18th. It has not been where been made

A W T

Circuit Court of U. States
District of Massachusetts

Banks Lake & Eg
v
Little Falls

} apl 1858

The matters in controversy in the above case having been settled between the parties it is agreed that the action shall be discontinued without costs. The clerk need not make any record of the pleadings

A H Fiske for Compts.

F. E. Parker, for Deftts

79 David Banks & als in Eq
vs
Chas. C. Little & als

agreement.

Wm. S. Wein Ct. Memphis
June 22 1858
Filed in the Clerks Office
attest